

SENATE BILL 477

By Beavers

AN ACT to amend Tennessee Code Annotated, Title 2,  
Chapter 12, relative to county election  
commissions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly finds that current laws provide for the selection and appointment of members to the state election commission and to the respective county election commissions, which county election commissions are state agencies, based upon the political party composition of the general assembly. It has been the general assembly's intent that the composition of the state and county election commissions could and should be influenced by the party affiliation of those who are appointed to serve as commissioners as well as those appointed to serve at the pleasure of the commissions. It remains the intent of the general assembly that the election commissions have had and should continue to have the discretion, power and authority to be influenced by political considerations in their discretion in their service, administration and in the general performance of their official duties. The general assembly finds it appropriate to clarify its intent with respect to the existing statutes regarding the function, funding, staffing and operation of the state and county election commissions.

SECTION 2. Tennessee Code Annotated, Section 2-12-116(a), is amended by deleting subdivision (1) and by substituting instead the following language:

(1) The commission shall appoint an administrator of elections, who shall be the chief administrative officer of the commission and shall be responsible for the daily operations of the commission office, carrying out the policies of the commission and the execution of all elections. The term of office of an administrator of elections shall automatically expire when the two (2) year term of office of the appointing commission

expires. In evaluating a prospective appointee, the commission may, in its discretion, consider the political party affiliation of a prospective appointee as well as the knowledge and experience of such prospective appointee in the following areas: administrative, managerial, instructional, communication, budgetarial, purchasing, promotional, legal and general office skills and other related skills necessary to fulfill the statutory requirements of administrator. An administrator of elections is an at-will appointee of the appointing election commission and may be removed, reassigned or replaced at any time in the discretion of the commission with or without cause;

SECTION 3. Tennessee Code Annotated, Section 2-12-109, is amended by deleting subsection (a) and by substituting instead the following:

(a) Except as otherwise provided by law, it is the responsibility of the county to fund the operations of its election commission. The county shall not have the authority to revise or restrict the election commission's discretion with respect to line items of a election commission budget. If a county fails to appropriate funds sufficient to pay expenses that are reasonably necessary, in the discretion of the election commission, for the discharge of the statutorily mandated duties of the election commission, such commission may petition the chancery court of the county in which such election commission is located to compel the appropriation of such funds. In the event that a commission files a petition to compel the appropriation of funds by the county, the county shall bear the burden of establishing by clear and convincing evidence that the funds requested by the election commission are unreasonable in light of the historical budgets of the election commission and the projected operating expenses of the election commission. The legal expenses of the election commission related to its funding by the county shall be paid by the county as part of the election commission's operating expenses.

SECTION 4. Tennessee Code Annotated, Section 2-12-101(c), is amended by deleting the introductory language and subdivision (1) and by substituting instead the following:

(c) County election commissions or its commissioners when acting in their official capacity as commissioners shall be represented in legal proceedings as follows:

(1) Unless otherwise provided in this subsection, all legal expenses of a county election commission or of its commissioners (including former commissioners with respect to claims arising out of their service as or commissioners) shall be funded by the county as part of the operating expenses of the election commission. However, if the legal proceeding involves a municipal election, the municipality concerned shall be responsible for the legal expenses. In the event that there is a dispute regarding which entity is responsible for the election commission's legal expenses, the county shall pay the legal expenses and shall have the right to bring an action seeking reimbursement from a responsible entity.

SECTION 5. Tennessee Code Annotated, Section 2-12-116(a), is amended by deleting subdivision (4) and substituting instead the following:

(4) Upon the recommendation of the administrator or on the motion of any commissioner, hire legal counsel in its discretion to advise and represent the commission;

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.